area and planned layout corresponds approximately to the difference between the two industrial lots and the land (Lot 109), it would not be altogether unrealistic to allow a difference in price between the small industrial lots and the land at a figure round about those suggested by the valuers.

Lot 431 was sold on 26th August 1965 at $39,520 an acre. On the same day Lot 432 was sold at $41,580. There is no evidence as to which sale preceeded the other. With the average of these sales as a basis and allowing for the deduction on the lines suggested by the valuers it is possible, in my view, to arrive at a more or less fair valuation.

This method did not commend itself to the learned judge when it was suggested by counsel for the appellant, for this reason that "it would be giving compensation for unrealised possibilities as if they were realised possibilities." The answer to this is that it is not so. It is a valuation on the basis of a comparison of a bigger lot with smaller ones with deductions based on the opinions of experienced valuers.

After considering all the evidence and the advantages which the land enjoys such as its title, as well as its drawbacks in the presence of the tidal drain, lack of accessibility and other relevant factors, I assess the market value of the land at $32,000 an acre. I am not allowing for a rise in price as there is no evidence of any sales of industrial lots after 1965. The evidence of a rise based on the sale of the undivided shares of Lot 435 is no evidence of a general trend.

My award for 3.261 acres comprised in the land is $104,320. To that must be added a sum of $5,200 for the wooden house thereon and a sum of $800 being removal expenses, making a total of $110,320.

I direct that interest be paid by the superintendent in accordance with section 69 of the Land Code. I make no order as to costs either here or in the court below.

Azmi L.P. and **Ali F.J.** concurred.

Appeal allowed.

Solicitors: *Yong & Wong.*

NG BEE & ANOR. v. COLLECTOR OF LAND REVENUE, KUALA PILAH

[O.C.J. (Wan Suleiman J., G.K. Kathiravelu and C.J. Sergeant, Assessors) April 14, 1972]

[Seremban — Land Reference No. 1 of 1964]

Land Laws — Compulsory acquisition — Compensation — Objection to award made by collector — Reference to court — Determination of market value — Costs — Land Acquisition Act, 1960, ss. 8, 12 and 51(1)(a).

This was an objection against the award of the respondent in respect of the compulsory acquisition of land, comprised in C.T. No. 4426, Lot Nos. 3740 and 3102, in the Mukim of Ulu Muar, District of Kuala Pilah, for the purpose of building a school.

A declaration under section 8 of the Land Acquisition Act, 1960 was duly published in the *Gazette* on June 12, 1962.

On November 7, 1962, the collector held an inquiry under section 12 of the said Act and awarded the sum of $5,000 per acre or $40,000 for the total of 8 acres acquired.

The court on a reference, had to determine what was the market value of the said land acquired on June 12, 1962. It was assisted by two assessors.

Held: (1) the award of $5,000 per acre was more than adequate for the land acquired, taking into account a rather remote building potential and any severance loss (in its building potential value) which might arise as a result of the acquisition, to the remaining land;

(2) since the amount of the court award did not exceed the sum awarded by the collector, the costs were to be paid by the applicants by virtue of section 51(1)(a) of the Land Acquisition Act.

Cases referred to:-

(1) *Nanyang Manufacturing Co.* v. *The Collector of Land Revenue, Johore* [1954] M.L.J. 69.

(2) *Harish Chandar Neogy* v. *Secretary of State* 11 C.W.N. 876.

(3) *Bukit Raya Rubber Co. Ltd.* v. *Collector of Land Revenue, Klang* [1968] 1 M.L.J. 176.

LAND REFERENCE.

S. Krishnalingam for the applicant.

Suleiman bin Hashim (Legal Adviser, Negri Sembilan/Malacca) for the respondent.

Cur. Adv. Vult.

Wan Suleiman J.: This is an objection against the award of the Collector of Land Revenue, Kuala Pilah, in respect of the compulsory acquisition of land comprised in C. T. No. 4426, lot Nos. 3740 and 3102, in the mukim of Ulu Muar, District of Kuala Pilah, for the purpose of building a school.

A declaration under section 8 of the Land Acquisition Act, 1960 was duly published in the *Gazette* on 12th June, 1962 so that in the absence of any notification under section 4 of the Act, what this court has to determine is the market value of the land acquired on that date (See First Schedule, paragraph 1(1)(b)).

The collector held an inquiry under section 12 of the Act on November 7, 1962 and heard the testimony of only one expert, Inche Mohamed Ali bin Maidin, a first class licensed appraiser and valuer called by the applicants. I shall be referring in due course to this valuation, which the valuer called by the applicants in this court adopted *in toto*. Judging from the notes of inquiry alone, no other expert opinion appears to have been considered, though the appli-

cants in their grounds of objection, complain that the report of one Mr. R. G. Fraser, acting chief valuer, valuation division, Federation of Malaya, who was not called as a witness, and whose report was not tendered at the inquiry before the collector, was the valuation on which the collector based his award. Mr. Fong Keh Chong, the treasury valuer, who was called by the collector at the present hearing however confirms that the latter had indeed been guided by the advice of another treasury valuer, Mr. J. R. Brampton who has since left this country on termination of his contract. I can see nothing illegal in the course taken by the collector, though there can be no doubt that had Mr. Brampton been called to testify at the collector's inquiry, his testimony would be of great assistance to this court.

The collector awarded $5,000 per acre or $40,000 for the total of 8 acres acquired. The grounds on which this amount of compensation was determined, as stated by him in Form O are as follows:

"The market value of the land with rubber trees such as this one is $4,000 per acre. Taking into consideration its close proximity to the town of Kuala Pilah and with road a further $1,000 per acre is added. This also includes a small amount for severance to the other half of the lot — thus an award of $5,000 per acre is arrived at, making a total of $40,000...."

The applicants were unable to call Inche Mohamed Ali bin Maidin to testify on their behalf because, I am told, of the latter's failing health. Instead they called another valuer and appraiser, Inche Mohamed Yunus bin Mohamed Khatib, who inspected the acquired land in February, 1969. He had been given a copy of the report of Inche Mohamed Ali bin Maidin with which he was in complete agreement. Because of his adoption, *in toto* of this report, I have allowed it to be produced, with the consent of the learned legal adviser as if it was his own report (See Exhibit P1).

This report is adequately summarised by the maker, at the inquiry before the collector, thus: (and I quote)

"To sum up, the valuation of the property acquired is as follows:—

(a)	Building potential 7½ acres of high land at $5,500 an acre	$41,250.00
	Approximately ½ acre of valley at $1,000 per acre	500.00
	Total	$41,750.00
(b)	Loss of future profits from the rubber at 75 cents per pound —	
	Portion for tappers	23 cents
	Portion for owner	52 cents
	Less allowance for administration and maintenance expenses	5 cents
	∴ Marginal profit	47 cents
	Estimated yearly loss of earnings — 47 cents x 7,500 lbs = 3,525.00	
	Estimated yearly loss of earnings for 7 years:- = 7 x $3,525/-	$24,675.00
	Severance: I consider that the diminution in value of the remaining land amounts to $500 per acre and therefore assess the amount of damage by severance at $3,465.62 on 6 acres 3 roods 29 poles.	

The grand total:—

(a)	Building potential	$41,750.00
(b)	Loss of profits	$24,675.00
(c)	Severance	$ 3,465.62
	Grand Total	$69,890.62

Inche Mohamed Yunus does not appear to have made any independent research on his own. He admitted that he had not considered the value of transactions in (similar) land in the neighbourhood.

Regarding its potential value as building land, he claimed that the land would fetch $5,500 per acre when subdivided and ready for building. The undeveloped value he said was between $3,500 and $4,000 per acre. He went on to explain that his valuation at $5,500 per acre would be what it would fetch —

"after the clearing up of the land and the setting aside of road reserves and drain reserves."

It is clear that Inche Mohamed Yunus is unacquainted with the cost of developing land for building. The treasury valuer Mr. Fong estimated the costs of development alone of lot 4145, which is no doubt somewhat more hilly, but in other respects, particularly road frontage at least similar to the land acquired, at $25,000 per acre. Even if this is considered to be on the high side, I am satisfied that Inche Mohamed Ali's valuation could not have taken into account its value as a developed site. Nowhere in his report Exhibit P1 did he state that such a factor was included in his valuation. In fact from page 4 of his report, it is abundantly clear that the factor taken was a "definite building potential".

I therefore propose to ignore such parts of Inche Mohamed Yunus' opinion as are inconsistent with the report of Inche Mohamed Ali.

The applicants also led evidence of the purchase by PW3 of a developed housing lot of a little less than 6,500 sq. ft. in a housing estate, Chin Joo Gardens, about ½ mile from the centre of Kuala Pilah town, which the latter had purchased from the developers for $3,500.

PW4 a rubber dealer and son of the first applicant, estimated loss of income for seven years at 7 x $3,525 = $24.675 (precisely the amount for the same item in Exhibit P1). However the record of sales covering a period of 12 months showed a total production of about 6,640 lbs per year for what remained of C.T. 4426 (*i.e.* for 8 a. 2 r. 20.1 p.) at an average price of about 95 cents per pound. For reasons which will appear later in these grounds I shall say nothing more about this "loss of income" beyond nothing that if it is at all relevant the figure for 7 years would be after proportionate deductions (tapper and maintenance) 7 x .35 x 6,000 (for 8 acres) = $14,700 or about $1,840/- per acre.

Mr. Fong Keh Chong, a Fellow of the Royal Institute of Chartered Surveyors, United Kingdom and Member of Institute of Surveyors, Malaysia, since 1964, and senior valuation officer, of the treasury valuation division, was called on behalf of the collector. His report, a most comprehensive one is marked Exhibit D3.

On 4th April, 1972, accompanied by both assessors, and counsel on both sides, I visited the land acquired and the other pieces of land referred to in Mr. Fong's report. Because what I saw confirms in the main the factual contents of his report, I propose to set out in

full Mr. Fong's report from paragraph 5 thereof up to the end.

"5. *Situation & Description.*

The land to be acquired is situated with approximately 330 feet frontage to Kuala Pilah/Bahau Road at 26th milestone and is about one mile from the Town Centre. It is situated outside the Town Council and is about 200 yards from the Town Council boundary (see site plan attached). On the opposite side of the Kuala Pilah/Bahau Road, the land is low-lying with Kampong type of houses on land fronting the road and *Sawah* land behind the river Sungei Muar. The said land has return frontage to a laterite road leading to Ulu Gentam constructed under the Rural Development Scheme in 1961. In fact, part of Lot 3740 *i.e.* la. lr. 18p. were acquired in 1961 for the construction of this road.

The portion of land to be acquired fronting the Kuala Pilah/Bahau Road has a steep bank about 12 feet above the road level. Along the new laterite road, the land rises fairly steeply inwards. At the back portion of the land there is about ½ an acre low-lying sawah land which is not being cultivated. At the time of my inspection I found that the land is under rubber of about 12 years old. (T.J.I. seedlings). Therefore at the material date of valuation *i.e.* June 24, 1962, the rubber trees were 7 — 8 years old. The rubber trees are in good condition and they are still being tapped.

The remaining land not being acquired, approximately 8 acres, lies at the back portion of lot 3741 but access is available through the new laterite road as can be seen from the attached site plan.

6. *Electricity & Water Supply.*

Electricity and main water supply are available up to the Town Council boundary.

7. *Town Planning.*

As the land acquired lies outside the Town Council Area, it is not subject to any planning control except the portion of land which lies within the 3 chain limit from the Centre of the Main Road (Kuala Pilah/Bahau Road). At the material date of valuation, the owners had not put up any application for sub-division with the intention to develop the land into a housing estate. In fact, there were no applications at all up to 1962 for sub-division for housing purposes by owners of land situated even inside the Town Council boundary along Kuala Pilah/Bahau Road.

8. *Conversion of Title & Removal of Agricultural Conditions.*

The land acquired is under agricultural title and before the land could be used for building purposes, the owner has to apply to the State Government for the conversion of title and the removal of the agricultural conditions. Normally such an application is referred to the Town Planner for his observations and recommendations. The Town Planner will not recommend the conversion of title unless he is of the opinion that the land is ripe for building development and the State Government has the absolute right to turn down any such application without giving reasons. Even after the application for the conversion of title is approved, the owners have to pay further premium amounting to 20% of the Improvement Value plus a higher rental.

9. *Observations on Housing Demand in Kuala Pilah.*

According to the 1957 census, the population of Kuala Pilah Town Council area was 12,024 people. Adopting the annual growth of population at 3% the population of the Kuala Pilah Town Council area in 1962 could be fairly estimated at 14,000 people. All the shophouses in the Town of Kuala Pilah are of 2 storeyed pre-war shophouses and one could hardly find any new shophouses in Town. This indicates that the Town is not expanding at all. Most of the new buildings are public buildings such as schools, Town Council office *etc.* There are of course several individual new houses for residential purposes in various parts of the Town and the only Housing Estate is Chin Joo Gardens which is situated inside the Town Council area along Kuala Pilah/Seremban Road and is quite close to the Kuala Pilah Rest House. The developers of Chin Joo Gardens first applied to develop the land in January, 1962. This is a very small housing estate consisting of altogether 31 housing lots for detached houses and up to 1966 only 14 houses have been erected. Unlike the larger towns, there is no demand for houses in Kuala Pilah as an investment. The demand for houses in Kuala Pilah comes wholly from the owner occupiers and the demand from this sector is also very limited as evidenced by the fact that up to 1962 there were no housing estates in Kuala Pilah. The initial step to develop the only housing estate in Kuala Pilah *i.e.* Chin Joo Gardens was taken in 1962 and after a period of 4 years less than half of the total 31 lots have been erected with houses. Along the Kuala Pilah/Bahau Road, there are no housing developments at all except some Government quarters which are situated inside the Town Council area. In the vicinity of the land acquired the lands are mainly under rubber and there are some Malay type of Kampong houses on Malay holdings.

10. *Evidence of Value.*

There are practically no sales of land in the vicinity of the land acquired except the conveyance of Lots 3741 and 3104 on September 5, 1960. I am quoting, however, 2 other conveyances in other parts of the Kuala Pilah Town as a guide in determining the market value of the land acquired. The details of the conveyances are given below:—

(a) *Lot 3740 Mukim of Ulu Muar.*

Part of this lot *i.e.* la. lr. 18p. was acquired by the Government for the construction of the new road leading to Ulu Gentam *vide* Negri Sembilan *Gazette* notification No. 305 dated July 6, 1961 and the owners accepted compensation at $6,030 *i.e.* approximately $4,427 per acre. The same owners are not prepared to accept compensation at $5,000 per acre about one year later.

(b) *Lots 3741 and 3104 Mukim of Ulu Muar.*

Lot 3741 is situated with frontage to Kuala Pilah/Bahau Road and is adjacent to the land acquired. It is under rubber in similar conditions to that on the land acquired. Lot 3104 is a small lot with 0.310 acre in area opposite Lot 3741 on the other side of the road. Both these lots with a total area of 10.067 ac. were conveyed on September 5, 1960 for $7,500 *i.e.* approximately $745 per acre.

(c) *Lot 4145 Mukim of Pilah — area 36.156 acres.*

This lot is situated with frontage to Kuala Pilah/Tampin Road and is just adjacent to Tunku Muhammed School. It lies just within the Kuala Pilah Town Council area and is under rubber of about 20 — 25 years old. It was conveyed on 16th March, 1963 at $74,722.92 cents (2/3 share) *i.e.* approximately $3,100 per acre.

(d) *Lots 749 and 750 Mukim of Ampang Tinggi — Total Area 4,994 acres.*

These two lots are situated with frontage to the old Kuala Pilah/Seremban Road and are adjoining the Government Dispensary and P.W.D. Labour Lines. The land is within the Town Council area and is under rubber of about 20-25 years old together with some fruit trees. There are 4 temporary buildings on the land. Both these lots were conveyed on 21st November, 1963 for $30,000 *i.e.* approximately $6,000 per acre.

11. *Opinion of Value.*

Having studied the position of housing demand in Kuala Pilah in 1962, I am of the opinion that the land acquired is not ripe for housing development in the foreseeable future for the following two reasons:

(a) There was very limited demand for houses in Kuala Pilah in 1962 as evidenced by the fact that the only housing estate in Kuala Pilah *i.e.* Chin Joo Gardens (31 housing lots) had not been developed by 1962. There were no other proposals to develop other housing estates even inside the Town Council area in 1962.

(b) There were no sales of land in the vicinity of the land acquired indicating that land in this area was being conveyed at prices higher than that based on the agricultural value.

In expressing the market value of the land acquired a prudent valuer cannot ignore the fact that this land is under agricul-

tural title and any prudent purchaser will have to consider whether or not the State Government is likely to approve the conversion of title. It may be argued that a valuer should not exclude any element of potential building land value just because the land is under agricultural title as the Land Acquisition Act, 1960 specifies compensation being the market value of the land acquired. This is quite true but there is no evidence of sales indicating that land in the vicinity is being conveyed at prices higher than that based merely on agricultural value. In fact, the only conveyance available is the sale of the adjacent land Lot 3741 and 3104 at approximately $745 per acre on September 5, 1960. No doubt, this conveyance took place nearly two years before the material date of valuation but there is no evidence of sale in the vicinity of the land acquired or even in other parts of the Town Council area to show that there is a tremendous increase in land value from 1960-1962 to justify the owners' claim of compensation at about $8,740 per acre.

I am of the opinion that the market value of the land acquired which is under 7-8 years old rubber (assuming that the rubber trees are of high yielding clone and that the estate is well-maintained and under good management) is $3,000 per acre. As the land is quite close to the Town Council boundary a prudent purchaser in the market might be prepared to pay a price slightly higher than that based on the agricultural use in order to reflect some remote building potential. I am of the considered opinion that the Collector's award at $5,000 per acre is more than adequate in reflecting the remote building potential (if any).

In support of my opinion above, I will like to refer to the two conveyances mentioned in paragraph 10(c) and (d) of this Report and Valuation. These two pieces of land are both situated within the Town Council area and are in many respects more favourable for building development than the land acquired. Lot 4145 was conveyed on March 16, 1963 *i.e.* about 9 months after the material date of valuation only at $3,100 per acre. Lots 749 and 750 were conveyed on November 21, 1963. *i.e.* about 17 months after the material date of valuation at $6,000 per acre.

12. *Injurious affection.*

The Collector's award of $40,000 should cover all items of claim as laid down under the First Schedule of the Land Acquisition Act, 1960 including any claim for injurious affection. I am of the opinion that on the basis of agricultural use, there is not much ground for claiming injurious affection because this is a small holding and the operation cost on the remaining land will not increase as a result of the acquisition. On the basis of land used for building development, there may be some grounds to claim injurious affection as the portion of land with road frontages were acquired and it might be more expensive to develop the remaining land. However, as the land acquired is not, in my opinion, ripe for building development in the foreseeable future, the injurious affection element is somewhat remote."

In addition to his report, Mr. Fong amplified portions of it in court, some of which I consider deserve special attention. Among other things he said that the award of $4,427 per acre in respect of lot 3740 on 6th July, 1961 was not done on the advice of the treasury valuation division, and that he would have recommended a lesser sum.

Regarding lot 4145 which has considerable road frontage and which seems to be somewhat superior in building potential than the land acquired, he felt that it was purchased with housing development in mind. The fact that no development has taken place nine years after sale gives, in my view, some indication of the growth rate of Kuala Pilah town.

Mr. Fong is also of the view (a view with which I am in full agreement) that lots 749 and 750 are in a more favourable position than the other pieces of land — because of easier terrain and closeness to town centre and built up areas — it adjoins an old hospital building — from which it would be safe to infer that electricity and water supply were readily available in 1962, neither of which amenities were available in the vicinity of the land acquired in June, 1962.

I am also in agreement with his opinion that lot 4577 — Chin Joo Gardens — consisting of developed housing lots is no proper comparison with the undeveloped land acquired.

I shall now deal with the principles of land valuation recognized by law. Mr. Lingam, learned counsel for the applicants has, with respect, erred in his interpretation of the modes of valuation approved in *Nanyang Manufacturing Co.* v. *The Collector of Land Revenue, Johore* [1] wherein Buhagiar J., following the Indian case of *Harish Chandar Neogy* v. *Secretary of State*[2] held that there are 3 recognized methods of valuation *viz.* —

(1) opinion of experts;

(2) the price paid, within a reasonable time, in *bona fide* transactions of purchases of lands acquired, or of the lands adjacent to the land acquired and possessing similar advantages; and

(3) a number of years' purchase of the actual or immediately prospective, profit from the lands acquired.

If I understand him correctly, Mr. Lingam holds the view that the value arrived at under method (2) should be added to the value arrived at by method (3). It is indeed strange that he should attempt to support this contention by reference to the unreported decision in Johore Bahru High Court Land Reference No. 7 of 1953 where in the absence of evidence of sales of land in the vicinity comparable to the acquired land Paul Storr, J. made an award solely on the basis of method (3) above, *i.e.* number of years' purchase, which he held in respect of rubber land should normally be on the seven years' profit basis.

On that basis, calculating from the figures available to this court, the value of the 8 acres acquired would be $14,700 or somewhat less than $2,000 per acre.

Inche Mohamed Ali's mode of valuation has some resemblance to that adopted by Raja Azlan Shah J. in *Bukit Raya Rubber Co. Ltd.* v. *Collector of Land Revenue, Klang,*[3] though unfortunately he has not made any attempt to show how he had arrived at his figure for development value. Again in the *Bukit Raya* case, *supra*, the method of valuation was adopted because the comparative figures of sales adduced in evidence were not regarded by the learned judge as fully comparable to the land acquired. This is not true in the present reference. The safest guide, in my judgment, to determine fair market value is evidence of sales of the same or similar land in the neighbourhood, allowance being made for all the circumstances. There is adequate evidence of such sales.

I have had the advantage of hearing the opinion of both assessors, both of whom have arrived at a valuation with which I concur.

I agree with Mr. Fong that the award of $5,000 per acre is more than adequate for the land acquired,

taking into account a rather remote building potential and any severance loss (in its building potential value) which might arise as a result of the acquisition, to the remaining land.

I would therefore award compensation as follows:—

Under para 2(a) of the First Schedule to the Act, taking into account the price of the acquired land as good rubber and adding to that an element for building potential - - - - -	$4,500 per acre
Severance loss - - - - - - - -	$ 500 per acre
Total amount of award - - - -	$5,500 per acre

I should add that if the assessors and I erred at all, our valuation would err on the generous side. We have not deducted any sum under sub-paragraph (b) of paragraph 2 of the First Schedule, even though there must be some increase in the value of the remaining land, by reason of the fact that a school and ancillary buildings are to be constructed on the site acquired.

Under section 41(3) I order that each asessor shall be paid a fee of $300 for the three days for the hearing of this reference. In view of the fact that the amount of the court award does not exceed the sum awarded by the collector, I order under section 51(1)(a) that the costs shall be paid by the applicants.

Order accordingly.

G.K. Karthiravelu and **C.J. Sergeant, Assessors,** concurred.

Solicitors: *Joseph & Son.*

SUN HING & CO. v. SUN CHEONG TIN MINES

[R.C.J. (Sharma J.) April 20, 1972]

[Ipoh — Civil Revision No. 1 of 1972]

Sale of Goods — Claim for goods sold and delivered — Interest — Claim for — No reasons given.

Practice and Procedure — Cause of action — Accrual of — Subordinate Courts Rules, 1950, O. 19 r. 10 — Civil Law Ordinance, 1956, s. 11.

The plaintiff filed an action in the sessions court claiming $7,232,64 for goods sold and delivered to the defendant. No defence was filed and the defendant did not appear at the hearing on February 25, 1972. Judgment was entered for the plaintiff as prayed.

The plaintiff claimed and was awarded interest at the rate of 6% *per annum* from August 22, 1970, to the date of payment of the judgment debt. However, the statement of claim did not state why interest was claimed from August 22, 1970, or as to when the cause of action arose.

Held: the order of the learned president was to be varied in so far as payment of interest was concerned. Since the action was filed on January 22, 1972, the plaintiff was consequently entitled to interest at the rate of 6% *per annum* from January 22, 1972 and not from August 22, 1970.

REVISION.

Lim Boon Seng for the plaintiff.

The defendant, by its managing partner, Leong Siew Cheong.

Sharma J. (delivering oral judgment): The plaintiff filed an action in the sessions court claiming tne sum of $7,232.64 for goods sold and delivered to the defendant. The defendant did not file any defence nor did it appear when the suit came up for hearing on 25th February, 1972. The learned president thereupon gave judgment for the plaintiff as prayed in the statement of claim. The plaintiff had claimed interest at the rate of 6 *per cent per annum* from 22nd August, 1970 to the date of payment of the judgment debt. There is not a word in the statement of claim as to why interest was claimed from 22nd August, 1970 or as to when the cause of action arose.

The defendant although it did not appear wrote a letter to the court that the plaintiff was not entitled to interest at 6 *per cent per annum* from 22nd August, 1970 but from the date of judgment. This letter, whatever its worth, does not seem to have been taken into consideration by the learned president. I am not saying that the learned president should have given any thought to it when the defendant did not raise any issue on the question of payment of interest and had failed to file any defence. It was, however, the duty of the learned president to consider the provisions of Order 19, rule 10 of the Subordinate Courts Rules which deals with the question of interest and authorises interest not exceeding 6 *per cent per annum* from the date of filing of the action to the date of judgment. Section 11 of the Civil Law Ordinance no doubt does authorise the court to award interest from the date of the cause of action but in this particular case the statement of claim does not disclose when the cause of action arose nor does there appear anything on the record to show the date of the accrual of the cause of action.

In the circumstances the order of the learned president is varied in so far as payment of interest by the defendant is concerned. The action was filed on 22nd January, 1972. The plaintiff is consequently entitled to interest at the rate of 6 *per cent per annum* from 22nd January, 1972 and not from 22nd August, 1970.

Order accordingly.

Solicitor: *Lim Boon Seng.*